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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/070,284 | 07/12/2002 | Kenshu Shimada | 450101-03333 | 3062 |
| 20999 | 7590 | 08/09/2005 | EXAMINER | |
| FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151 | | | RHODE JR, ROBERT E | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3625 | |

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/070,284

Applicant(s)

SHIMADA, KENSHU

Examiner

Rob Rhode

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-55 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1 – 14, 29 - 40 and 53, drawn to an apparatus for commodity selling and acquiring an order, classified in class 705, subclass 26.
- II. Claims 15 and 26, drawn to an apparatus and medium device for placing an order with associated fee for purchase requests, classified in class 705, subclass 37.
- III. Claims 16 - 25 drawn to a storage medium device for placing an order from a sale store for a commodity based on a consumer order, classified in class 705, subclass 37.
- IV. Claims 27 and 28, drawn to a commodity selling method with delivery term of commodity and the quantity of possible orders and shipping, classified in class 705, subclass 28
- V. Claims 41 – 46 and 54 - 55, drawn to a method and program for furnishing stored and extracted information, classified in class 707, subclass 10.
- VI. Claim 47 - 52, drawn to a booking program for holding, extracting and transmitting commodity information with a ordering acquiring and booking function, classified in 707 class, subclass 6.

Inventions Groups I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Group II has separate utility such as requiring an associated fee. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Inventions Groups I and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Group III has separate utility such as a storage medium for placing an order from a sale store for a commodity based on a consumer order. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Inventions Groups I and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Group IV has separate utility such as a commodity selling method with delivery term of commodity and the quantity of possible orders and shipping. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Inventions Groups I and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Group V has separate utility such as method and program for furnishing stored and extracted information. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Inventions Groups I and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Group IV has separate utility such as a booking program for holding, extracting and transmitting commodity information with ordering acquiring and booking function. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Inventions Groups II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Group III has separate utility such as a storage medium device for placing an order from a sale store for a commodity based on a consumer order. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Inventions Groups II and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Group IV has separate utility such as a commodity selling method with delivery term of the commodity and the quantity of possible orders and shipping. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Inventions Groups II and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Group V has

separate utility such a method and program for furnishing stored and extracted information. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Inventions Groups II and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Group VI has separate utility such as a booking program for holding, extracting and booking function. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Inventions Groups III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Group IV has separate utility such as a commodity selling method with delivery term of the commodity and the quantity of possible orders and shipping. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Inventions Groups III and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Group V has separate utility such as a method and program for furnishing stored and extracted information. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Inventions Groups III and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Group VI has separate utility such as a booking program for holding, extracting and transmitting commodity information with a ordering, acquiring and booking function. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Inventions Groups IV and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Group V has separate utility such as a method and program for furnishing stored and extracted information. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Inventions Groups IV and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Group VI has separate utility such as a booking program for holding, extracting and transmitting commodity information with a ordering acquiring and booking function. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Inventions Groups V and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if

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they are shown to be separately usable. In the instant case, invention Group VI has separate utility such as a booking program for holding, extracting and transmitting commodity information with a booking ordering acquiring and booking function. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Species

In the event the applicant elects Group I above, the applicant is further obligated to elect among the following species as follows:

This application contains claims directed to the following patentably distinct species of the claimed invention:

- Ia. Species of claims 1 – 4, 6, 8 – 10, 12 and 14.
- Ib. Species of claims 1 – 4, 6, 8 -9, 11 – 12 and 14.
- Ic. Species of claims 1 – 4, 6, 8 - 9 and 12 - 14.
- Ie. Species of claims 1 – 3, 5 - 6, 8 - 10, 12 and 14.
- If. Species of claims 1 – 3, 5 - 6, 8 - 9, 11 -12 and 14.
- Ig. Species of claims 1 – 3, 5 - 6, 8 - 9 and 12 - 14.
- Ih. Species of claims 1 – 3, 7, 8 -10, 12 and 14.
- Ii. Species of claims 1 – 3, 7, 8 - 9, 11 - 12 and 14.
- Ij. Species of claims 1 – 3, 7, 8 -9 and 12 - 14.
- Ik. Species of claims 1, 2 and 29 - 32.
- Il. Species of claims 1, 2, 29 – 31 and 33.
- Im. Species of claims 1, 2, 29 – 31 and 34.
- In. Species of claims 1, 2 and 35 - 39.
- Io. Species of claims 1, 2, 35 – 38 and 40.

Species

In the event the applicant elects Group III above, the applicant is further obligated to elect among the following species as follows:

This application contains claims directed to the following patentably distinct species of the claimed invention:

IIIa. Species of claims 17, 19, 21 – 22 and 24.

IIIb. Species of claims 17, 19, 21 and 23 - 24.

IIIc. Species of claims 17, 19, 21 and 24 - 25.

IIId. Species of claims 18 - 19, 21 - 22 and 24.

IIIe. Species of claims 18 - 19, 21 and 23 - 24.

III f. Species of claims 18 - 19, 21 and 24 - 25.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently for Group I Claim 1 is generic and for Group III, Claim 27 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **571.272.6761**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **571.272.7159**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

571.273.8300 [Official communications; including
After Final communications labeled
"Box AF"]

[Informal/Draft communications, labeled


"PROPOSED" or "DRAFT"]

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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RER


Jeffrey A. Smith
Primary Examiner